

TIMOTHY J. RACICOT
Assistant U.S. Attorney
U.S. Attorney's Office
P.O. Box 8329
Missoula, MT 59807
101 East Front Street, Suite 401
Missoula, MT 59801
Phone: (406) 542-8851
FAX: (406) 542-1476
Email: tim.racicot2@usdoj.gov

ATTORNEY FOR PLAINTIFF
UNITED STATES OF AMERICA

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
BILLINGS DIVISION

UNITED STATES OF AMERICA,	CR 23-57-BLG-SPW
Plaintiff,	SENTENCING MEMORANDUM
vs.	
ROBERT JOHN BIGBACK,	
Defendant.	

INTRODUCTION

On July 19, 2023, the defendant, Robert John Bigback, pleaded guilty to the indictment, which charged one count of prohibited person in possession of a firearm and ammunition. PSR ¶ 3. He also admitted the forfeiture allegation.

Doc. 14 at 2. The Court entered a final order of forfeiture on October 4, 2023.

Doc. 26.

The presentence investigation report has calculated an advisory Guideline range of 57 to 71 months, based on a total offense level of 19 and a criminal history category of V. PSR ¶ 67. Neither party objects to that calculation.

The government recommends a term of imprisonment within the advisory guideline range, three years of supervised release, and the \$100 special assessment.

RECOMMENDATION

Section 3553(a) of Title 18 of the United States Code contains prefatory language: “The court shall impose a sentence sufficient, but not greater than necessary, to comply with the purposes set forth in paragraph (2) of this subsection.” Those purposes include the need for the sentence to:

- reflect the seriousness of the offense;
- promote respect for the law;
- provide just punishment for the offense;
- afford adequate deterrence to criminal conduct;
- protect the public from further crimes of the defendant; and,
- provide the defendant with needed educational or vocational training, medical care, or other correctional treatment in the most effective manner.

In addition, subsection (1) of § 3553(a) requires the Court to consider the nature and circumstances of the offense and the history and characteristics of the defendant; subsection (3) requires the Court to consider the kinds of sentences available; subsections (4), (5), and (6) require the Court to consider the sentencing guidelines and policy statements, and to avoid unwarranted sentencing disparity; and subsection (7) requires the Court to provide restitution to victims.

Bigback is only 28 years old, but his Criminal History category is V. PSR ¶ 37. He has a state robbery conviction from Wyoming and two federal felonies – felon in possession of firearms and distribution of methamphetamine. PSR ¶¶ 31, 33, 34. Bigback’s possession of the firearm in this case occurred while he was serving two terms of supervised release for the federal convictions and just two months after he was released from prison. PSR ¶ 7. And he possessed the gun while he was high on methamphetamine and appeared paranoid that “people were around and trying to get him.” PSR ¶ 11. Finally, the gun Bigback possessed was stolen, though there is no indication he was involved in the theft. PSR ¶ 13.

The circumstances of this case support a sentence within the advisory guideline range. Bigback has shown almost no respect for the law by obtaining a gun just two months after his release from prison and while on supervised release. His use of meth while in possession of the firearm, along with the number and nature of his prior convictions, highlights the danger he poses to the community

and the need to deter him from committing additional crimes. In short, all of the § 3553(a) factors counsel in favor of a guideline sentence and support the government's recommendation in this case.

Respectfully submitted this 27th day of October, 2023.

JESSE A. LASLOVICH
United States Attorney

/s/ Timothy J. Racicot
Assistant U.S. Attorney
Attorney for Plaintiff

CERTIFICATE OF SERVICE

I hereby certify that on October 27, 2023, a copy of the foregoing document was served on the following persons by the following means:

- (1,2) CM/ECF
- ☐ Hand Delivery
- ☐ U.S. Mail
- ☐ Overnight Delivery Service
- ☐ Fax
- ☐ E-Mail

1. Clerk, U.S. District Court
2. Russell Hart
Assistant Federal Defender
Federal Defenders of Montana
2702 Montana Ave., Suite 101
Billings, MT 59101

/s/ Timothy J. Racicot
Assistant U.S. Attorney
Attorney for Plaintiff